

104TH CONGRESS
1ST SESSION

H. R. 2169

To provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 1995

Mr. McHALE (for himself, Mr. SHAYS, Mrs. WALDHOLTZ, Mr. BARRETT of Wisconsin, Mr. KLUG, Mr. CASTLE, Mr. MINGE, Mr. DEAL of Georgia, Mr. DICKEY, Mr. ZIMMER, Mr. MEEHAN, Mr. LUTHER, and Mr. INGLIS of South Carolina) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Lobbying Disclosure Reform Act of 1995”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Registration of lobbyists.

Sec. 5. Reports by registered lobbyists.
 Sec. 6. Duties of Chairman.
 Sec. 7. Initial procedure for alleged violations.
 Sec. 8. Determinations of violations.
 Sec. 9. Disclosure of information; written decisions.
 Sec. 10. Judicial review.
 Sec. 11. Conforming amendments to other statutes.
 Sec. 12. Severability.
 Sec. 13. Authorization of appropriations.
 Sec. 14. Identification of clients and covered officials.
 Sec. 15. Transitional filing requirement.
 Sec. 16. Estimates based on tax reporting system.
 Sec. 17. Effective dates and interim rules.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) responsible representative Government re-
 4 quires public awareness of the efforts of paid lobby-
 5 ists to influence the public decisionmaking process in
 6 both the legislative and executive branches of the
 7 Federal Government;

8 (2) existing lobbying disclosure statutes have
 9 been ineffective because of unclear statutory lan-
 10 guage, weak administrative and enforcement provi-
 11 sions, and an absence of clear guidance as to who
 12 is required to register and what they are required to
 13 disclose;

14 (3) the effective public disclosure of the identity
 15 and extent of the efforts of paid lobbyists to influ-
 16 ence Federal officials in the conduct of Government
 17 actions will increase public confidence in the integ-
 18 rity of Government;

1 (4) citizens acting on their own behalf, regard-
2 less of how much money they might spend or how
3 influential they might be perceived to be, should not
4 be subject to reporting and disclosure requirements;
5 and

6 (5) grassroots organizations play an important
7 role in a democracy, and individual citizens' right,
8 ability, or ease in participating in "grassroots" ac-
9 tivities should not be infringed upon.

10 **SEC. 3. DEFINITIONS.**

11 As used in this Act:

12 (1) AGENCY.—The term "agency" has the
13 meaning given that term in section 551(1) of title 5,
14 United States Code.

15 (2) CLIENT.—The term "client" means any
16 person or entity that employs or retains another per-
17 son for financial or other compensation to conduct
18 lobbying activities on behalf of that person or entity.
19 A person or entity whose employees act as lobbyists
20 on its own behalf is both a client and an employer
21 of such employees. In the case of a coalition or asso-
22 ciation that employs or retains other persons to con-
23 duct lobbying activities, the client is the coalition or
24 association and not its individual members.

1 (3) COVERED EXECUTIVE BRANCH OFFICIAL.—

2 The term “covered executive branch official”
3 means—

4 (A) the President;

5 (B) the Vice President;

6 (C) any officer or employee, or any other
7 individual functioning in the capacity of such
8 an officer or employee, in the Executive Office
9 of the President;

10 (D) any officer or employee serving in a
11 position in level I, II, III, IV, or V of the Exec-
12 utive Schedule, as designated by statute or Ex-
13 ecutive order;

14 (E) any officer or employee serving in a
15 Senior Executive Service position, as defined in
16 section 3132(a)(2) of title 5, United States
17 Code;

18 (F) any member of the uniformed services
19 whose pay grade is at or above O–7 under sec-
20 tion 201 of title 37, United States Code; and

21 (G) any officer or employee serving in a
22 position of a confidential, policy-determining,
23 policy-making, or policy-advocating character
24 described in section 7511(b)(2) of title 5, Unit-
25 ed States Code.

1 (4) COVERED LEGISLATIVE BRANCH OFFI-
2 CIAL.—The term “covered legislative branch official”
3 means—

4 (A) a Member of Congress;

5 (B) an elected officer of either House of
6 Congress;

7 (C) any employee of, or any other individ-
8 ual functioning in the capacity of an employee
9 of—

10 (i) a Member of Congress;

11 (ii) a committee of either House of
12 Congress;

13 (iii) the leadership staff of the House
14 of Representatives or the leadership staff
15 of the Senate;

16 (iv) a joint committee of Congress;

17 and

18 (v) a working group or caucus orga-
19 nized to provide legislative services or
20 other assistance to Members of Congress;

21 and

22 (D) any other legislative branch employee
23 serving in a position described under section
24 109(13) of the Ethics in Government Act of
25 1978 (5 U.S.C. App.).

1 (5) CHAIRMAN.—The term “Chairman” means
2 the Chairman of the Federal Election Commission.

3 (6) ATTORNEY GENERAL.—The term “Attorney
4 General” means the Attorney General of the United
5 States.

6 (7) EMPLOYEE.—The term “employee” means
7 any individual who is an officer, employee, partner,
8 director, or proprietor of a person or entity, but does
9 not include—

10 (A) independent contractors;

11 (B) volunteers who receive no financial or
12 other compensation from the person or entity
13 for their services; and

14 (C) individual citizens acting on their own
15 behalf.

16 (8) FOREIGN ENTITY.—The term “foreign en-
17 tity” means a foreign principal (as defined in section
18 1(b) of the Foreign Agents Registration Act of 1938
19 (22 U.S.C. 611(b)).

20 (9) LOBBYING ACTIVITIES.—The term “lobby-
21 ing activities” means lobbying contacts and efforts
22 in support of such contacts, including preparation
23 and planning activities, research and other back-
24 ground work that is intended, at the time it is per-
25 formed, for use in contacts, and coordination with

1 the lobbying activities of others. Lobbying activities
2 also include efforts to stimulate grassroots lobbying,
3 as described in section 4911(d)(1)(A) of the Internal
4 Revenue Code of 1986, to the extent that such com-
5 munications are made in support of a lobbying con-
6 tact by a registered lobbyist. A communication in
7 support of a lobbying contact is a lobbying activity
8 even if the communication is excluded from the defi-
9 nition of “lobbying contact” under paragraph
10 (10)(B).

11 (10) LOBBYING CONTACT.—

12 (A) DEFINITION.—The term “lobbying
13 contact” means any oral or written communica-
14 tion (including an electronic communication) to
15 a covered executive branch official or a covered
16 legislative branch official that is made on behalf
17 of a client with regard to—

18 (i) the formulation, modification, or
19 adoption of Federal legislation (including
20 legislative proposals);

21 (ii) the formulation, modification, or
22 adoption of a Federal rule, regulation, Ex-
23 ecutive order, or any other program, policy,
24 or position of the United States Govern-
25 ment;

1 (iii) the administration or execution of
2 a Federal program or policy (including the
3 negotiation, award, or administration of a
4 Federal contract, grant, loan, permit, or li-
5 cense), except that this clause does not in-
6 clude communications that are made to
7 any covered executive branch official—

8 (I) who is serving in a Senior Ex-
9 ecutive Service position described in
10 paragraph (3)(E); or

11 (II) who is a member of the uni-
12 formed services whose pay grade is
13 lower than O-9 under section 201 of
14 title 37, United States Code,
15 in the agency responsible for taking such
16 administrative or executive action; or

17 (iv) the nomination or confirmation of
18 a person for a position subject to confirma-
19 tion by the Senate.

20 (B) EXCEPTIONS.—The term “lobbying
21 contact” does not include a communication that
22 is—

23 (i) required by subpoena, civil inves-
24 tigative demand, or otherwise compelled by

1 statute, regulation, or other action of the
2 Congress or an agency; and

3 (ii) made by—

4 (I) a church, its integrated auxil-
5 iary, or a convention or association of
6 churches that is exempt from filing a
7 Federal income tax return under
8 paragraph (2)(A)(i) of section
9 6033(a) of the Internal Revenue Code
10 of 1986, or

11 (II) a religious order that is ex-
12 empt from filing a Federal income tax
13 return under paragraph (2)(A)(iii) of
14 such section 6033(a);

15 (iii) between—

16 (I) officials of a self-regulatory
17 organization (as defined in section
18 3(a)(26) of the Securities Exchange
19 Act of 1934) that is registered with or
20 established by the Securities and Ex-
21 change Commission as required by
22 that Act or a similar organization that
23 is designated by or registered with the
24 Commodities Future Trading Com-

mission as provided under the Com-
modity Exchange Act; and

(II) the Securities and Exchange
Commission or the Commodities Fu-
ture Trading Commission, respec-
tively;

relating to the regulatory responsibilities of
such organization under that Act;

(iv) testimony given before a commit-
tee, subcommittee, or task force of the
Congress, or submitted for inclusion in the
public record of a hearing conducted by
such committee, subcommittee, or task
force;

(v) made in response to a notice in
the Federal Register, Commerce Business
Daily, or other similar publication solicit-
ing communications from the public and
directed to the agency official specifically
designated in the notice to receive such
communications;

(vi) made to an official in an agency
with regard to—

1 (I) a judicial proceeding or a
2 criminal or civil law enforcement in-
3 quiry, investigation, or proceeding; or

4 (II) a filing or proceeding that
5 the Government is specifically re-
6 quired by statute or regulation to
7 maintain or conduct on a confidential
8 basis,

9 if that agency is charged with responsibil-
10 ity for such proceeding, inquiry, investiga-
11 tion, or filing.

12 (11) LOBBYING FIRM.—The term “lobbying
13 firm” means a person or entity that has 1 or more
14 employees who are lobbyists on behalf of a client
15 other than that person or entity. The term also in-
16 cludes a self-employed individual who is a lobbyist.

17 (12) LOBBYIST.—The term “lobbyist” means
18 any individual who is employed or retained by a cli-
19 ent for financial or other compensation for services
20 that include 1 or more lobbying contacts, other than
21 an individual whose lobbying activities constitute less
22 than 10 percent of the time engaged in the services
23 provided by such individual to that client.

24 (13) MEMBER OF CONGRESS.—The term
25 “Member of Congress” means a Senator or a Rep-

1 representative in, or Delegate or Resident Commis-
2 sioner to, the Congress.

3 (14) ORGANIZATION.—The term “organization”
4 means a person or entity other than an individual.

5 (15) PERSON OR ENTITY.—The term “person
6 or entity” means any individual, corporation, com-
7 pany, foundation, association, labor organization,
8 firm, partnership, society, joint stock company,
9 group of organizations, or State or local government.

10 (16) STATE.—The term “State” means each of
11 the several States, the District of Columbia, and any
12 commonwealth, territory, or possession of the United
13 States.

14 **SEC. 4. REGISTRATION OF LOBBYISTS.**

15 (a) REGISTRATION.—

16 (1) GENERAL RULE.—No later than 30 days
17 after a lobbyist first makes a lobbying contact or is
18 employed or retained to make a lobbying contact,
19 whichever is earlier, such lobbyist (or, as provided
20 under paragraph (2), the organization employing
21 such lobbyist), shall register with the Federal Elec-
22 tions Commission.

23 (2) EMPLOYER FILING.—Any organization that
24 has 1 or more employees who are lobbyists shall file
25 a single registration under this section on behalf of

1 such employees for each client on whose behalf the
2 employees act as lobbyists.

3 (3) EXEMPTION.—

4 (A) GENERAL RULE.—Notwithstanding
5 paragraphs (1) and (2), a person or entity
6 whose—

7 (i) total income for matters related to
8 lobbying activities on behalf of a particular
9 client (in the case of a lobbying firm) does
10 not exceed and is not expected to exceed
11 \$2,500;

12 (ii) the total income in connection
13 with lobbying activities in a 6-month pe-
14 riod does not exceed \$5,000; or

15 (iii) total expenses in connection with
16 lobbying activities (in the case of an orga-
17 nization whose employees engage in lobby-
18 ing activities on its own behalf) do not ex-
19 ceed or are not expected to exceed \$5,000,
20 (as estimated under section 5) in the semi-
21 annual period described in section 5(a) during
22 which the registration would be made is not re-
23 quired to register under subsection (a) with re-
24 spect to such client.

1 (B) ADJUSTMENT.—The dollar amounts in
2 subparagraph (A) shall be adjusted—

3 (i) on January 1, 1997, to reflect
4 changes in the Consumer Price Index (as
5 determined by the Secretary of Labor)
6 since the date of enactment of this Act;
7 and

8 (ii) on January 1 of each fourth year
9 occurring after January 1, 1997, to reflect
10 changes in the Consumer Price Index (as
11 determined by the Secretary of Labor)
12 during the preceding 4-year period,
13 rounded to the nearest \$500.

14 (b) CONTENTS OF REGISTRATION.—Each registra-
15 tion under this section shall be in such form as the Chair-
16 man shall prescribe by regulation and shall contain—

17 (1) the name, address, business telephone num-
18 ber, and principal place of business of the registrant,
19 and a general description of its business or activi-
20 ties;

21 (2) the name, address, and principal place of
22 business of the registrant's client, and a general de-
23 scription of its business or activities (if different
24 from paragraph (1));

1 (3) the name, address, and principal place of
2 business of any organization, other than the client,
3 that—

4 (A) contributes more than \$5,000 toward
5 the lobbying activities of the registrant in a
6 semiannual period described in section 5(a);
7 and

8 (B) participates significantly in the plan-
9 ning, supervision, or control of such lobbying
10 activities;

11 (4) the name, address, principal place of busi-
12 ness, amount of any contribution of more than
13 \$5,000 to the lobbying activities of the registrant,
14 and approximate percentage of equitable ownership
15 in the client (if any) of any foreign entity that—

16 (A) holds at least 20 percent equitable
17 ownership in the client or any organization
18 identified under paragraph (3);

19 (B) directly or indirectly, in whole or in
20 major part, plans, supervises, controls, directs,
21 finances, or subsidizes the activities of the cli-
22 ent or any organization identified under para-
23 graph (3); or

24 (C) is an affiliate of the client or any orga-
25 nization identified under paragraph (3) and has

1 a direct interest in the outcome of the lobbying
2 activity;

3 (5) a statement of—

4 (A) the general issue areas in which the
5 registrant expects to engage in lobbying activi-
6 ties on behalf of the client; and

7 (B) to the extent practicable, specific is-
8 sues that have (as of the date of the registra-
9 tion) already been addressed or are likely to be
10 addressed in lobbying activities; and

11 (6) the name of each employee of the registrant
12 who has acted or whom the registrant expects to act
13 as a lobbyist on behalf of the client and, if any such
14 employee has served as a covered executive branch
15 official or a covered legislative branch official in the
16 5 years before the date on which such employee first
17 acted (after the date of enactment of this Act) as a
18 lobbyist on behalf of the client, the position in which
19 such employee served and the Member, committee,
20 or agency for which the individual served.

21 (c) GUIDELINES FOR REGISTRATION.—

22 (1) MULTIPLE CLIENTS.—In the case of a reg-
23 istrant making lobbying contacts on behalf of more
24 than 1 client, a separate registration under this sec-
25 tion shall be filed for each such client.

1 (2) MULTIPLE CONTACTS.—A registrant who
2 makes more than 1 lobbying contact for the same
3 client shall file a single registration covering all such
4 lobbying contacts.

5 (d) TERMINATION OF REGISTRATION.—A registrant
6 who after registration—

7 (1) is no longer employed or retained by a cli-
8 ent to conduct lobbying activities, and

9 (2) does not anticipate any additional lobbying
10 activities for such client,

11 may so notify the Chairman and terminate its registration.

12 **SEC. 5. REPORTS BY REGISTERED LOBBYISTS.**

13 (a) SEMIANNUAL REPORT.—

14 (1) IN GENERAL.—No later than 30 days after
15 the end of the semiannual period beginning on the
16 first day of each January and the first day of July
17 of each year in which a registrant is registered
18 under section 4, each registrant shall file a report
19 with the Federal Election Commission (hereinafter
20 referred to as the “Commission”) on its lobbying ac-
21 tivities during such semiannual period. A separate
22 report shall be filed for each client of the registrant.

23 (2) EXEMPTION.—

24 (A) GENERAL RULE.—Any registrant
25 whose—

1 (i) total income for a particular client
2 for matters that are related to lobbying ac-
3 tivities on behalf of that client (in the case
4 of a lobbying firm), does not exceed and is
5 not expected to exceed \$2,500;

6 (ii) the total income in connection
7 with lobbying activities in a 6-month pe-
8 riod does not exceed \$5,000; or

9 (iii) total expenses in connection with
10 lobbying activities (in the case of a reg-
11 istrant whose employees engage in lobbying
12 activities on its own behalf) do not exceed
13 and are not expected to exceed \$5,000,

14 in a semiannual period (as estimated under
15 paragraph (3) or (4) of subsection (b) or para-
16 graph (4) of subsection (c), as applicable) is
17 deemed to be inactive during such period and
18 may comply with the reporting requirements of
19 this section by so notifying the Chairman in
20 such form as the Chairman may prescribe.

21 (B) ADJUSTMENT.—The dollar amounts in
22 subparagraph (A) shall be adjusted as provided
23 in section 4(a)(3)(B).

24 (b) CONTENTS OF REPORT.—Each semiannual re-
25 port filed under subsection (a) shall be in such form as

1 the Chairman shall prescribe by regulation and shall con-
2 tain—

3 (1) the name of the registrant, the name of the
4 client, and any changes or updates to the informa-
5 tion provided in the initial registration;

6 (2) for each general issue area in which the reg-
7 istrant engaged in lobbying activities on behalf of
8 the client during the semiannual filing period—

9 (A) a list of the specific issues upon which
10 a lobbyist employed by the registrant engaged
11 in lobbying activities, including, to the maxi-
12 mum extent practicable, a list of bill numbers
13 and references to specific regulatory actions,
14 programs, projects, contracts, grants, and
15 loans;

16 (B) a statement of the Houses and com-
17 mittees of Congress and the Federal agencies
18 contacted by lobbyists employed by the reg-
19 istrant on behalf of the client;

20 (C) a list of the employees of the registrant
21 who acted as lobbyists on behalf of the client;
22 and

23 (D) a description of the interest, if any, of
24 any foreign entity identified under section

1 4(b)(4) in the specific issues listed under sub-
2 paragraph (A).

3 (3) in the case of a lobbying firm, a good faith
4 estimate of the total amount of all income from the
5 client (including any payments to the registrant by
6 any other person for lobbying activities on behalf of
7 the client) during the semiannual period, other than
8 income for matters that are unrelated to lobbying
9 activities; and

10 (4) in the case of a registrant engaged in lobby-
11 ing activities on its own behalf, a good faith estimate
12 of the total expenses that the registrant and its em-
13 ployees incurred in connection with lobbying activi-
14 ties during the semiannual filing period.

15 (c) ESTIMATES OF INCOME OR EXPENSES.—For pur-
16 poses of this section, estimates of income or expenses shall
17 be made as follows:

18 (1) \$100,000 OR LESS.—Income or expenses of
19 \$100,000 or less shall be estimated in accordance
20 with the following categories:

21 (A) \$10,000 or less.

22 (B) More than \$10,000 but not more than
23 \$20,000.

24 (C) More than \$20,000 but not more than
25 \$50,000.

1 (D) More than \$50,000 but not more than
2 \$100,000.

3 (2) MORE THAN \$100,000 BUT NOT MORE THAN
4 \$500,000.—Income or expenses in excess of \$100,000
5 but not more than \$500,000 shall be estimated and
6 rounded to the nearest \$50,000.

7 (3) MORE THAN \$500,000.—Income or expenses
8 in excess of \$500,000 shall be estimated and round-
9 ed to the nearest \$100,000.

10 (4) CONSTRUCTION.—In estimating total in-
11 come or expenses under this section, a registrant is
12 not required to include—

13 (A) the value of contributed services for
14 which no payment is made; or

15 (B) the expenses for services provided by
16 an independent contractor of the registrant who
17 is separately registered under this Act.

18 (d) CONTACTS.—

19 (1) CONTACTS WITH COMMITTEES.—For pur-
20 poses of subsection (b)(2), any contact with a mem-
21 ber of a committee of Congress, an employee of a
22 committee of Congress, or an employee of a member
23 of a committee of Congress regarding a matter with-
24 in the jurisdiction of such committee shall be consid-
25 ered to be a contact with the committee.

1 (2) CONTACTS WITH HOUSE OF CONGRESS.—

2 For purposes of subsection (b)(2), any contact with
3 a Member of Congress or an employee of a Member
4 of Congress regarding a matter that is not within
5 the jurisdiction of a committee of Congress of which
6 that Member is a member shall be considered to be
7 a contact with the House of Congress of that Mem-
8 ber.

9 (3) CONTACTS WITH FEDERAL AGENCIES.—For
10 purposes of subsection (b)(2), any contact with a
11 covered executive branch official shall be considered
12 to be a contact with the Federal agency that em-
13 ploys that official, except that a contact with a cov-
14 ered executive branch official who is detailed to an-
15 other Federal agency or to the Congress shall be
16 considered to be a contact with the Federal agency
17 or with the committee of Congress or House of Con-
18 gress to which the official is detailed.

19 (e) EXTENSION FOR FILING.—The Chairman may
20 grant an extension of time of not more than 30 days for
21 the filing of any report under this section, upon the re-
22 quest of the registrant, for good cause shown.

23 **SEC. 6. DUTIES OF CHAIRMAN.**

24 The Chairman shall—

1 (1) after notice and a reasonable opportunity
2 for public comment, and consultation with the Sec-
3 retary of the Senate, the Clerk of the House of Rep-
4 resentatives, and the Administrative Conference of
5 the United States, prescribe such regulations and
6 forms as are necessary to carry out the registration
7 and reporting requirements of this Act;

8 (2) provide guidance and assistance on the reg-
9 istration and reporting requirements of this Act, in-
10 cluding—

11 (A) providing information to all registrants
12 at the time of registration about the obligations
13 of registered lobbyists under this Act, and

14 (B) issuing published decisions and advi-
15 sory opinions;

16 (3) review the registrations and reports filed
17 under this Act and make such verifications or in-
18 quiries as are necessary to ensure the completeness,
19 accuracy, and timeliness of the registrations and re-
20 ports;

21 (4) develop filing, coding, and cross-indexing
22 systems to carry out the purposes of this Act, in-
23 cluding—

24 (A) a publicly available list of all registered
25 lobbyists and their clients; and

1 (B) computerized systems designed to min-
2 imize the burden of filing and maximize public
3 access to materials filed under this Act;

4 (5) ensure that the computer systems developed
5 pursuant to paragraph (4)—

6 (A) allow the materials filed under this Act
7 to be accessed by the client name, lobbyist
8 name, and registrant name;

9 (B) are compatible with or are the same as
10 computer systems already developed and main-
11 tained by the Federal Election Commission, and
12 that information filed in the two systems can be
13 readily cross-referenced; and

14 (C) are compatible with computer systems
15 developed and maintained by the Secretary of
16 the Senate and the Clerk of the House of Rep-
17 resentatives;

18 (6) make copies of each registration and report
19 filed under this Act available to the public, upon the
20 payment of reasonable fees, not to exceed the cost
21 of such copies, as determined by the Chairman, in
22 written and electronic formats, as soon as prac-
23 ticable after the date on which such registration or
24 report is received;

1 (7) preserve the originals or accurate reproduc-
2 tion of—

3 (A) registrations filed under this Act for a
4 period that ends not less than 3 years after the
5 termination of the registration under section
6 4(d); and

7 (B) reports filed under this Act for a pe-
8 riod that ends not less than 3 years after the
9 date on which the report is received;

10 (8) maintain a computer record of—

11 (A) the information contained in registra-
12 tions for a period that ends not less than 5
13 years after the termination of the registration
14 under section 4(d); and

15 (B) the information contained in reports
16 filed under this Act for a period that ends not
17 less than 5 years after the date on which the
18 reports are received;

19 (9) compile and summarize, with respect to
20 each semiannual period, the information contained
21 in registrations and reports filed with respect to
22 such period in a manner which clearly presents the
23 extent and nature of expenditures on lobbying activi-
24 ties during such period;

1 (10) make information compiled and summa-
2 rized under paragraph (9) available to the public in
3 electronic and hard copy formats as soon as prac-
4 ticable after the close of each semiannual filing pe-
5 riod;

6 (11) provide, by computer telecommunication or
7 other transmittal in a form accessible by computer,
8 to the Secretary of the Senate and the Clerk of the
9 House of Representatives copies of all registrations
10 and reports received under sections 4 and 5 and all
11 compilations, cross-indexes, and summaries of such
12 registrations and reports, as soon as practicable (but
13 not later than 3 working days) after such material
14 is received or created;

15 (12) provide, by computer telecommunication or
16 other transmittal in a form accessible by computer,
17 to the Attorney General, copies of all registrations
18 and reports received under sections 4 and 5 on all
19 compilations, cross-indexes, and summaries of such
20 registrations and reports, as soon as practicable (but
21 not later than 3 working days) after such material
22 is received or created;

23 (13) make available to the public a list of all
24 persons whom the Attorney General determines,
25 under section 8 (after exhaustion of all appeals

1 under section 10) to have committed a major or
2 minor violation of this Act and submit such list to
3 the Congress as part of the report provided for
4 under paragraph (14); and

5 (14) make available to the public upon request
6 and transmit to the President, the Secretary of the
7 Senate, the Clerk of the House of Representatives,
8 the Committee on Governmental Affairs of the Sen-
9 ate, and the Committee on the Judiciary of the
10 House of Representatives a report, not later than
11 March 31 of each year, describing the activities of
12 the Commission and the implementation of this Act,
13 including—

14 (A) a financial statement for the preceding
15 fiscal year;

16 (B) a summary of the registrations and re-
17 ports filed with the Commission with respect to
18 the preceding calendar year;

19 (C) a summary of the registrations and re-
20 ports filed on behalf of foreign entities with re-
21 spect to the preceding calendar year; and

22 (D) recommendations for such legislative
23 or other action as the Chairman considers ap-
24 propriate.

1 **SEC. 7. INITIAL PROCEDURE FOR ALLEGED VIOLATIONS.**

2 (a) ALLEGATION OF A VIOLATION.—Whenever the
3 Attorney General has reason to believe from complaints
4 filed with the Attorney General or otherwise that a person
5 or entity may be in violation of the requirements of this
6 Act, the Attorney General shall notify the person or entity
7 in writing of the nature of the alleged violation and pro-
8 vide an opportunity for the person or entity to respond
9 in writing to the allegation within 30 days after the notifi-
10 cation is sent or such longer period as the Attorney Gen-
11 eral may determine appropriate in the circumstances.

12 (b) INITIAL DETERMINATION.—

13 (1) IN GENERAL.—If the person or entity re-
14 sponds within the period described in the notification
15 under subsection (a), the Attorney General shall—

16 (A) issue a written determination that the
17 person or entity has not violated this Act if the
18 person or entity provides adequate information
19 or explanation to make such determination; or

20 (B) make a formal request for information
21 under subsection (c) or a notification under sec-
22 tion 8(a), if the information or explanation pro-
23 vided is not adequate to make a determination
24 under subparagraph (A).

25 (2) WRITTEN DECISION.—If the Attorney Gen-
26 eral makes a determination under paragraph (1)(A),

1 the Attorney General shall issue a public written de-
2 cision in accordance with section 9.

3 (c) FORMAL REQUEST FOR INFORMATION.—If a per-
4 son or entity fails to respond in writing within the period
5 described in the notification under subsection (a) or the
6 response is not adequate to determine whether such per-
7 son or entity has violated this Act, the Attorney General
8 may make a formal request for specific additional written
9 information (subject to applicable privileges) that is rea-
10 sonably necessary for the Attorney General to make such
11 determination. Each such request shall be structured to
12 minimize any burden imposed, consistent with the need
13 to determine whether the person or entity is in compliance
14 with this Act, and shall—

15 (1) state the nature of the conduct constituting
16 the alleged violation which is the basis for the in-
17 quiry and the provision of law applicable thereto;

18 (2) describe the class or classes of material to
19 be produced pursuant to the request with such defi-
20 niteness and certainty as to permit such material to
21 be readily identified; and

22 (3) prescribe a return date or dates which pro-
23 vide a reasonable period of time within which the
24 person or entity may assemble and make available

1 for inspection and copying or reproduction the mate-
2 rial so requested.

3 **SEC. 8. DETERMINATIONS OF VIOLATIONS.**

4 (a) NOTIFICATION AND HEARING.—If the informa-
5 tion provided to the Attorney General under section 7 indi-
6 cates that a person or entity may have violated this Act,
7 the Attorney General shall—

8 (1) notify the person or entity in writing of this
9 finding and, if appropriate, a proposed penalty as-
10 sessment and provide such person or entity with an
11 opportunity to respond in writing within 30 days
12 after the notice is sent; and

13 (2) if requested in writing by that person or en-
14 tity within that 30-day period, afford the person or
15 entity an opportunity for a hearing on the record
16 under the provisions of section 554 of title 5, United
17 States Code.

18 (b) DETERMINATION.—Upon the receipt of a written
19 response under subsection (a)(1) when no hearing under
20 subsection (a)(2) is requested, upon the completion of a
21 hearing requested under subsection (a)(2), or upon the ex-
22 piration of 30 days in a case in which no such written
23 response is received, the Attorney General shall review the
24 information received under section 7 and this section (in-
25 cluding evidence presented at any such hearing) and make

1 a final determination whether there was a violation and
2 a final determination of the penalty, if any. If no written
3 response was received under this section within the 30-
4 day period provided, the determination and penalty assess-
5 ment shall constitute a final order not subject to appeal.

6 (c) WRITTEN DECISION.—

7 (1) DETERMINATION OF VIOLATION.—If the At-
8 torney General makes a final determination under
9 subsection (b) that there was a violation, the Attor-
10 ney General shall issue a written decision in accord-
11 ance with section 9—

12 (A) directing the person or entity to cor-
13 rect the violation; and

14 (B) assessing a civil monetary penalty—

15 (i) in the case of a minor violation,
16 which shall be no more than \$10,000, de-
17 pending on the extent and gravity of the
18 violation;

19 (ii) in the case of a major violation,
20 which shall be more than \$10,000, but no
21 more than \$100,000, depending on the ex-
22 tent and gravity of the violation;

23 (iii) in the case of a late registration
24 or filing, which shall be \$200 for each
25 week by which the registration or filing

1 was late, unless the Attorney General de-
2 termines that the failure to timely register
3 or file constitutes a major violation (as de-
4 fined under subsection (e)(2)) in which
5 case the amount shall be as prescribed by
6 clause (ii); or

7 (iv) in the case of a failure to provide
8 information requested by the Attorney
9 General pursuant to section 7(c), which
10 shall be no more than \$10,000, depending
11 on the extent and gravity of the violation,
12 except that no penalty shall be assessed if
13 the Attorney General determines that the
14 violation was the result of a good faith dis-
15 pute over the validity or appropriate scope
16 of a request for information.

17 (2) DETERMINATION OF NO VIOLATION OR IN-
18 SUFFICIENT EVIDENCE.—If the Attorney General
19 determines that no violation occurred or there was
20 not sufficient evidence that a violation occurred, the
21 Attorney General shall issue a written decision in ac-
22 cordance with section 9.

23 (d) CIVIL INJUNCTIVE RELIEF.—If a person or en-
24 tity fails to comply with a directive to correct a violation
25 under subsection (c), the Attorney General may seek civil

1 injunctive relief in the appropriate court of the United
2 States to compel such person or entity to comply with such
3 directive.

4 (e) PENALTY GUIDELINES.—The Attorney General
5 shall, after notice and a reasonable opportunity for public
6 comment and consultation with the Secretary of the Sen-
7 ate, the Clerk of the House of Representatives, and the
8 Administrative Conference of the United States, prescribe
9 such penalty guidelines as are necessary to carry out this
10 Act.

11 (f) PENALTY ASSESSMENTS.—

12 (1) GENERAL RULE.—No penalty shall be as-
13 sessed under this section unless the Attorney Gen-
14 eral finds that the person or entity subject to the
15 penalty knew or should have known that such person
16 or entity was in violation of this Act. In determining
17 the amount of a penalty to be assessed, the Attorney
18 General shall take into account the totality of the
19 circumstances, including the extent and gravity of
20 the violation, whether the violation was voluntarily
21 admitted and corrected, the extent to which the per-
22 son or entity may have profited from the violation,
23 the ability of the person or entity to pay, and such
24 other matters as justice may require.

1 (2) REGULATIONS.—Major violations shall be
2 defined to include a failure to register and any other
3 violation that is extensive or repeated, if the person
4 or entity who failed to register or committed such
5 other violation—

6 (A) had actual knowledge that the conduct
7 constituted a violation;

8 (B) acted in deliberate ignorance of the
9 provisions of this Act or regulations related to
10 the conduct constituting a violation; or

11 (C) acted in reckless disregard of the pro-
12 visions of this Act or regulations related to the
13 conduct constituting a violation.

14 (g) LIMITATION.—No proceeding shall be initiated
15 under section 7 or this section unless the Attorney General
16 notifies the person or entity who is to be the subject of
17 the proceeding of the alleged violation within 3 years after
18 the date on which the alleged violation occurred.

19 **SEC. 9. DISCLOSURE OF INFORMATION; WRITTEN DECI-**
20 **SIONS.**

21 (a) DISCLOSURE OF INFORMATION.—Information
22 provided to the Attorney General pursuant to sections 7
23 and 8 shall not be made available to the public without
24 the consent of the person or entity providing the informa-

1 tion, except to the extent that such information may be
2 included in—

3 (1) a new or amended report or registration
4 filed under this Act; or

5 (2) a written decision issued by the Attorney
6 General under this section.

7 (b) WRITTEN DECISIONS.—All written decisions is-
8 sued by the Attorney General under sections 7 and 8 shall
9 be made available to the public. The Attorney General may
10 provide for the publication of a written decision if the At-
11 torney General determines that publication would provide
12 useful guidance. Before making a written decision public,
13 the Attorney General—

14 (1) shall delete information that would identify
15 a person or entity who was alleged to have violated
16 this Act if—

17 (A) there was insufficient evidence to de-
18 termine that the person or entity violated this
19 Act or the Attorney General found that person
20 or entity did not violate this Act, and

21 (B) the person or entity so requests; and

22 (2) shall delete information that would identify
23 any other person or entity (other than a person or
24 entity who was found to have violated this Act), if
25 the Attorney General determines that such person or

1 entity could reasonably be expected to be injured by
2 the disclosure of such information.

3 **SEC. 10. JUDICIAL REVIEW.**

4 (a) FINAL DECISION.—A written decision issued by
5 the Attorney General under section 8 shall become final
6 60 days after the date on which the Attorney General pro-
7 vides notice of the decision, unless such decision is ap-
8 pealed under subsection (b) of this section.

9 (b) APPEAL.—Any person or entity adversely affected
10 by a written decision issued by the Attorney General under
11 section 8 may appeal such decision, except as provided
12 under section 8(b), to the appropriate United States court
13 of appeals. Such review may be obtained by filing a written
14 notice of appeal in such court no later than 60 days after
15 the date on which the Attorney General provides notice
16 of the Attorney General's decision and by simultaneously
17 sending a copy of such notice of appeal to the Attorney
18 General. The Attorney General shall file in such court the
19 record upon which the decision was issued, as provided
20 under section 2112 of title 28, United States Code. The
21 findings of fact of the Attorney General shall be conclu-
22 sive, unless found to be unsupported by substantial evi-
23 dence, as provided under section 706(2)(E) of title 5,
24 United States Code. Any penalty assessed or other action

1 taken in the decision shall be stayed during the pendency
2 of the appeal.

3 (c) RECOVERY OF PENALTY.—Any penalty assessed
4 in a written decision which has become final under this
5 Act may be recovered in a civil action brought by the At-
6 torney General in an appropriate United States district
7 court. In any such action, no matter that was raised or
8 that could have been raised before the Attorney General
9 or pursuant to judicial review under subsection (b) may
10 be raised as a defense, and the determination of liability
11 and the determination of amounts of penalties and assess-
12 ments shall not be subject to review.

13 **SEC. 11. CONFORMING AMENDMENTS TO OTHER STATUTES.**

14 (a) AMENDMENT TO COMPETITIVENESS POLICY
15 COUNCIL ACT.—Section 5206(e) of the Competitiveness
16 Policy Council Act (15 U.S.C. 4804(e)) is amended by in-
17 serting “or a lobbyist for a foreign entity (as the terms
18 ‘lobbyist’ and ‘foreign entity’ are defined under section 3
19 of the Lobbying Disclosure Act of 1995)” after “an agent
20 for a foreign principal”.

21 (b) AMENDMENTS TO TITLE 18, UNITED STATES
22 CODE.—Section 219(a) of title 18, United States Code,
23 is amended—

24 (1) by inserting “or a lobbyist required to reg-
25 ister under the Lobbying Disclosure Act of 1995 in

1 connection with the representation of a foreign en-
2 tity, as defined in section 3(8) of that Act” after
3 “an agent of a foreign principal required to register
4 under the Foreign Agents Registration Act of
5 1938”; and

6 (2) by striking out “, as amended,”.

7 (c) AMENDMENT TO FOREIGN SERVICE ACT OF
8 1980.—Section 602(c) of the Foreign Service Act of 1980
9 (22 U.S.C. 4002(c)) is amended by inserting “or a lobby-
10 ist for a foreign entity (as defined in section 3(8) of the
11 Lobbying Disclosure Act of 1995)” after “an agent of a
12 foreign principal (as defined by section 1(b) of the Foreign
13 Agents Registration Act of 1938)”.

14 **SEC. 12. SEVERABILITY.**

15 If any provision of this Act, or the application there-
16 of, is held invalid, the validity of the remainder of this
17 Act and the application of such provision to other persons
18 and circumstances shall not be affected thereby.

19 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

20 There are authorized to be appropriated for fiscal
21 years 1995, 1996, 1997, 1998, and 1999 such sums as
22 may be necessary to carry out this Act.

1 **SEC. 14. IDENTIFICATION OF CLIENTS AND COVERED OFFI-**
2 **CIALS.**

3 (a) ORAL LOBBYING CONTACTS.—Any person or en-
4 tity that makes an oral lobbying contact with a covered
5 legislative branch official or a covered executive branch of-
6 ficial shall, on the request of the official at the time of
7 the lobbying contact—

8 (1) state whether the person or entity is reg-
9 istered under this Act and identify the client on
10 whose behalf the lobbying contact is made; and

11 (2) state whether such client is a foreign entity
12 and identify any foreign entity required to be dis-
13 closed under section 4(b)(4) that has a direct inter-
14 est in the outcome of the lobbying activity.

15 (b) WRITTEN LOBBYING CONTACTS.—Any person or
16 entity registered under this Act that makes a written lob-
17 bying contact (including an electronic communication)
18 with a covered legislative branch official or a covered exec-
19 utive branch official shall—

20 (1) if the client on whose behalf the lobbying
21 contact was made is a foreign entity, identify such
22 client, state that the client is considered a foreign
23 entity under this Act, and state whether the person
24 making the lobbying contact is registered on behalf
25 of that client under section 4; and

1 (2) identify any other foreign entity identified
2 pursuant to section 4(b)(4) that has a direct interest
3 in the outcome of the lobbying activity.

4 (c) IDENTIFICATION AS COVERED OFFICIAL.—Upon
5 request by a person or entity making a lobbying contact,
6 the individual who is contacted or the office employing
7 that individual shall indicate whether or not the individual
8 is a covered legislative branch official or a covered execu-
9 tive branch official.

10 **SEC. 15. TRANSITIONAL FILING REQUIREMENT.**

11 (a) SIMULTANEOUS FILING.—Subject to subsection
12 (b), each registrant shall transmit simultaneously to the
13 Secretary of the Senate and the Clerk of the House of
14 Representatives an identical copy of each registration and
15 report required to be filed under this Act.

16 (b) SUNSET PROVISION.—The simultaneous filing re-
17 quirement under subsection (a) shall be effective until
18 such time as the Chairman, in consultation with the Sec-
19 retary of the Senate and the Clerk of the House of Rep-
20 resentatives, determines that the Federal Elections Com-
21 mission is able to provide computer telecommunication or
22 other transmittal of registrations and reports as required
23 under section 6(11).

24 (c) IMPLEMENTATION.—The Chairman, the Sec-
25 retary of the Senate, and the Clerk of the House of Rep-

1 representatives shall take such actions as necessary to ensure
2 that the Federal Elections Commission is able to provide
3 computer telecommunication or other transmittal of reg-
4 istrations and reports as required under section 6(11) on
5 the effective date of this Act, or as soon thereafter as rea-
6 sonably practicable.

7 **SEC. 16. ESTIMATES BASED ON TAX REPORTING SYSTEM.**

8 (a) ENTITIES COVERED BY SECTION 6033(b) OF THE
9 INTERNAL REVENUE CODE OF 1986.—A registrant that
10 is required to report and does report lobbying expenditures
11 pursuant to section 6033(b)(8) of the Internal Revenue
12 Code of 1986 may—

13 (1) make a good faith estimate (by category of
14 dollar value) of applicable amounts that would be re-
15 quired to be disclosed under such section for the ap-
16 propriate semiannual period to meet the require-
17 ments of sections 4(a)(3), 5(a)(2), and 5(b)(4); and

18 (2) in lieu of using the definition of “lobbying
19 activities” in section 3(9) of this Act, consider as
20 lobbying activities only those activities that are influ-
21 encing legislation as defined in section 4911(d) of
22 the Internal Revenue Code of 1986.

23 (b) ENTITIES COVERED BY SECTION 162(e) OF THE
24 INTERNAL REVENUE CODE OF 1986.—A registrant that
25 is required to account for lobbying expenditures and does

1 account for lobbying expenditures pursuant to section
2 162(e) of the Internal Revenue Code of 1986 may—

3 (1) make a good faith estimate (by category of
4 dollar value) of applicable amounts that would not
5 be deductible pursuant to such section for the appro-
6 priate semiannual period to meet the requirements
7 of sections 4(a)(3), 5(a)(2), and 5(b)(4); and

8 (2) in lieu of using the definition of “lobbying
9 activities” in section 3(9) of this Act, consider as
10 lobbying activities only those activities, the costs of
11 which are not deductible pursuant to section 162(e)
12 of the Internal Revenue Code of 1986.

13 (c) DISCLOSURE OF ESTIMATE.—Any registrant that
14 elects to make estimates required by this Act under the
15 procedures authorized by subsection (a) or (b) for report-
16 ing or threshold purposes shall—

17 (1) inform the Chairman that the registrant
18 has elected to make its estimates under such proce-
19 dures; and

20 (2) make all such estimates, in a given calendar
21 year, under such procedures.

22 (d) STUDY.—Not later than March 31, 1997, the
23 Comptroller General of the United States shall review re-
24 porting by registrants under subsections (a) and (b) and
25 report to the Congress—

1 (1) the differences between the definition of
2 “lobbying activities” in section 3(9) and the defini-
3 tions of “lobbying expenditures”, “influencing legis-
4 lation”, and related terms in sections 162(e) and
5 4911 of the Internal Revenue Code of 1986, as each
6 are implemented by regulations;

7 (2) the impact that any such differences may
8 have on filing and reporting under this Act pursuant
9 to this subsection; and

10 (3) any changes to this Act or to the appro-
11 priate sections of the Internal Revenue Code of 1986
12 that the Comptroller General may recommend to
13 harmonize the definitions.

14 **SEC. 17. EFFECTIVE DATES AND INTERIM RULES.**

15 (a) **IN GENERAL.**—Except as otherwise provided in
16 this section, this Act and the amendments made by this
17 Act shall take effect January 1, 1996.

18 (b) **REPEALS AND AMENDMENTS.**—The repeals and
19 amendments made under sections 12, 13, 14, and 15 shall
20 take effect as provided in subsection (a), except that such
21 repeals and amendments—

22 (1) shall not affect any proceeding or suit com-
23 menced before the effective date under subsection
24 (a), and in all such proceedings or suits, proceedings
25 shall be had, appeals taken, and judgments rendered

1 in the same manner and with the same effect as if
 2 this Act had not been enacted; and

3 (2) shall not affect the requirements of Federal
 4 agencies to compile, publish, and retain information
 5 filed or received before the effective date of such re-
 6 peals and amendments.

7 (b) REGULATIONS.—Proposed regulations required to
 8 implement this Act shall be published for public comment
 9 no later than 270 days after the date of the enactment
 10 of this Act. No later than 1 year after the date of the
 11 enactment of this Act, final regulations required to imple-
 12 ment this Act shall be published.

13 (c) PHASE-IN PERIOD.—No penalty shall be assessed
 14 by the Attorney General under section 8(f) for a violation
 15 of this Act which occurs during the first semiannual re-
 16 porting period under section 5 after the effective date pre-
 17 scribed by subsection (a).

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